a wider experience will afford. It is natural that she should now wish to remain in Malaya among people whom she knows. But who can say that she will have the same views some years hence after her outlook has been enlarged, and her contacts extended, in the life of the family to which she belongs? And can it be for her general well-being in life to deny her such experience and the opportunities that go with it, and to continue the unnatural separation from her father and mother and her family whom she has had no means of knowing since she was five years old? Secondly, the section requires me to "consider the wishes of the parents." I attach particular importance to the wishes of the father for two reasons. Firstly, whatever conflict of evidence there may be about the actions of the mother in 1942, it is beyond question that the father was parted from his child in circumstances in which he took no part and over which he had no control. Secondly, it is clear from the authorities that the father has a legal right to bring up his child in the way he thinks best for her welfare. I refer again to the words of James L.J. in *In re Agar-Ellis*[7], which I have quoted in this judgment. "The law has made him, not me, the judge of what is best for his child's welfare, and I cannot interfere with him in his honest exercise of the jurisdiction which the law has confided to him." Having regard primarily to the welfare of the child, I could take away his jurisdiction if it were not being honestly exercised. But through no fault of his he has had no opportunity of exercising his jurisdiction, and he now comes to this Court to claim it. Upon what ground am I to deprive him of a right which the law gives him? In not one of the authorities that have been cited has the Court deprived a father of this right unless he has in some way, or by his own misconduct, abrogated it. And I am satisfied that if I refused him the relief which he claims I should be acting contrary to the established principles of the law which it is my duty to administer.

There must be an order in the terms of the first two prayers of the summons, except that as the mother is now in the Colony the child will be handed into her care and custody, and not into that of the Consul-General of the Netherlands.

Costs against first defendant.

Order accordingly.

TAN GUEK EE & ANOR. v. LEE BEE CHOO *(m.w.)*.

[Orig. Civ. Juris. (Murray-Aynsley, C.J.)
January 18, 1951]

[Singapore — Suit No. 750 of 1950]

Civil Law Ordinance — Claim for damages arising out of death of a person — Liability of owner of vehicle — Amount of damages.

This was an action for damages arising out of the death of one Yeo Ah Khoon which was caused by a motor lorry belonging to the defendant. The defendant had hired the lorry to one Lee Ah Gee and at the time of the accident it was being driven by one Low Bah Bee who was the servant of Lee Ah Gee and not of the defendant. At the time of the accident the lorry was, owing to the mode of user, not insured against third party risks.

Held, (1) that as in this case the defendant knew that Low Bah Bee was driving and as she could, if she chose, have prevented him from driving, she must be considered to have permitted him to drive; (2) that as she had permitted the person to drive, the obligation to keep the vehicle insured whilst he was driving, was absolute, that it was immaterial whether she knew that he was insured or not and that she was therefore liable for damages.

ACTION for damages.

D. H. Murphy for the plaintiffs.

D. S. Marshall for the defendant.

Murray-Aynsley, C.J. : — This is an action for damages arising out of the death of one Yeo Ah Khoon which was caused by a motor-lorry belonging to the defendant. At the time of the accident the lorry was hired to one Lee Ah Gee and driven by one Low Bah Bee who was the servant of Lee Ah Gee and not of the defendant. At the time of the accident, owing to the mode of user, the lorry was not insured against third party risks. I found that the accident was caused by the negligence of Low Bah Bee. Both Low Bah Bee and Lee Ah Gee would be unable to satisfy a judgment for any substantial amount. In the circumstances the plaintiffs seek to recover from the defendant, the owner of the lorry.

As far as I am aware this is the first case of the kind in the Colony, but cases in England show that where an offence has been committed by permitting a person to drive a vehicle which is not insured against third party risks, an action lies at the instance of any person who suffers damage as the result of such failure to insure, which means that the actual driver and, I shall assume, the employer of such driver, is unable to compensate the injured person.

As regards liability, I think that the question in this case is whether the defendant permitted Low Bah Bee to drive. If that is the case, as I read the section, it is immaterial whether she knew that he was not

insured. If a person is permitted to drive, the obligation to keep the vehicle insured whilst he drives is absolute.

The arrangement of the defendant with Lee Ah Gee, who is her brother, seems to have been an informal one by which the defendant was paid an amount which varied according to the takings. I am satisfied that the defendant knew that Low Bah Bee was driving and that she could have put an end to the arrangement at any time and, if she chose, she could have prevented him from driving. It seems therefore that in the ordinary use of words she must be considered to have permitted him to drive.

It remains to consider the amount of damages. There are two items of special damage, which are not disputed, for $300 and $350.

For loss of expectation of life I assess the damage at $1,500.

There remains the question as to damages under the local equivalent of Lord Campbell's Act. On this point I had the advantage of hearing the evidence of Mr. Nesbit, an actuary. According to him, the financial loss, assuming that what the deceased gave to his wife was perfectly secured, granted an expectation of life of twenty years and interest at 3½%, would be $9,780. From this must be deducted $1,500 awarded for loss of expectation of life. This would leave $8,280. Whilst the deceased might have earned less than he did at the time of the accident, it would have been unlikely, unless there was a fall in the value of money, that he would have earned more. I assess the damage at $7,000, of which $1,000 is for the infant daughter and the balance for the widow.

The defendant must pay the costs of the action.

Judgment for the plaintiff.

MAN WOO v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J.)
January 31, 1951]

[Singapore — Magistrates Appeal No. 110 of 1950]

Evidence Ordinance, s. 25 — Statement made to Senior Customs Officer — Whether Customs Officer is a Police Officer.

In this case the appellant was charged with having possession of 377 tahils 6 chis of opium, an offence punishable under section 3(3) of the Opium and Chandu Proclamation. During the course of the trial a statement made to a Senior Customs Officer which amounted to a confession by the appellant was admitted in evidence.

The appellant's Counsel contended that Customs Officers are Police Officers and therefore the statement made by the appellant was inadmissible.

Held, that Customs Officers are not Police Officers, although in a sense the activities of all Government officers engaged in enforcing the law are police duties and it is entirely contrary to the ordinary use of language to describe officers so engaged as Police Officers.

MAGISTRATE'S APPEAL.

W. E. Demuth for the appellant.

A. V. Winslow (D.P.P.) for the Crown.

Murray-Aynsley, C.J. : — This was a chandu case. At the hearing the question was raised as to the interpretation of section 25 of the Evidence Ordinance.

In the present case a statement was made to a Senior Customs Officer. It is true that in a sense the activities of all Government officers engaged in enforcing the law are police duties. It is nevertheless, in my opinion, entirely contrary to the ordinary use of language to describe officers so engaged as Police officers. Further, the addition of the words "below the rank of Inspector" can only have reference to that body ordinarily known as the "Police" and which is governed by the Police Ordinance.

Apart from this matter the case does not call for any comment, except that there was ample evidence to justify the conviction, and the sentence was in no way excessive.

The appeal is dismissed.

Appeal dismissed.